

REMARKS

Claims 1-44 are currently pending, of which claims 1, 15, 16, 30, 31 and 41-44 are independent. No new matter has been added.

In response to the Office Action mailed June 2, 2008, Applicants respectfully resubmit the Declaration pursuant to 37 C.F.R. §1.131 originally submitted to the U.S. Patent and Trademark Office on February 25, 2008.

In a telephone interview with Examiner Termanini on November 25, 2008, agreement was reached that the Declaration pursuant to 37 C.F.R. §1.131 originally submitted to the U.S. Patent and Trademark Office on February 25, 2008 was sufficient to antedate United States Patent Publication Number 2003/0208480 to Faulkner et al. In turn, Examiner Termanini agreed to withdraw the Office Action mailed June 2, 2008. However, because of the proximity of the November 25, 2008 agreement and the final deadline of December 2, 2008, a formal withdrawal of the Office Action mailed June 2, 2008 was not made available on PAIR as of December 2, 2008.

In the alternative, Applicants respectfully request the Examiner to reconsider the Declaration pursuant to 37 C.F.R. §1.131 and withdraw the rejection of claims 1-44 under 35 U.S.C. §102(e) as being anticipated by United States Patent Publication Number 2003/0208480 to Faulkner et al. (hereafter "Faulkner").

Claim Rejections under 35 U.S.C. §102(e)

The Examiner rejected claims 1-44 under 35 U.S.C. §102(e) as being anticipated by United States Patent Publication Number 2003/0208480 to Faulkner et al. (hereafter "Faulkner"). Applicants' respectfully traverse this rejection on the basis of the Declaration pursuant to 37 C.F.R. §1.131, establishing invention prior to the effective publication date of the Faulkner reference.

Applicants contend that the Faulkner reference is not available as prior art against the present application. The invention as currently claimed was completed by Applicants in this country prior to the publication date of this reference. A sworn statement to this effect, along with supporting evidence, is provided in the enclosed Declaration Under 37 C.F.R. §1.131 signed by an authorized representative of the assignee, Enterasys Networks, Incorporated. In particular, Faulkner reference claims priority to United States Provisional Patent Application Number 60/377,708 which was filed on May 3, 2002. As stated and evidenced in the enclosed Declaration Under 37 C.F.R. §1.131, the inventors of the presently claimed invention had possession of and reduced to practice the invention prior to this date. Therefore, this reference is not available as prior art against the claims in the present application.

For at least the foregoing reasons, the presently claimed invention is patentable over the cited reference, and the Examiner is therefore respectfully requested to withdraw the rejection of claims 1-44 under 35 U.S.C. §102(e).

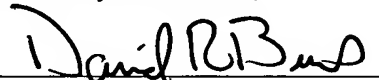
CONCLUSION

In light of the aforementioned arguments, Applicants submit that all of the pending claims 1-44 are in condition for allowance. Should the Examiner feel that a teleconference would expedite the prosecution of this application, the Examiner is urged to contact the Applicants' attorney at (617) 227-7400.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080, under Order No. ENB-009RCE. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

Dated: December 2, 2008

Respectfully submitted,

By 

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